

**TOWNSHIP OF RIVER VALE  
PLANNING BOARD  
March 17, 2008  
REGULAR MEETING  
MINUTES**

**ADEQUATE NOTICE STATEMENT:**

A Regular Meeting of the River Vale Planning Board was called to order at 8:00 p.m. The following statement was read: "This is a Regular Meeting of the Planning Board of the Township of River Vale. I am informed by the Clerk that adequate public notice has been provided by mailing notice to the Pascack Valley News/Post Review and The Record, by posting notice on the bulletin board in the Municipal Building, and by filing a copy of the notice to all persons who requested the same and prepaid the cost fixed by the Board".

**The Planning Board saluted the flag.**

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**ROLL CALL:**

**Members Present:**

Kenneth H. Koons	Chairman
Bruce Carillo	Vice-Chairman
Chris Wahmann	Secretary
Mayor Joseph Blundo	Class I
Peter Wayne	Class II
George Shalhoub	
Mark Ericksen	
Ron Tucci	
Scott Lippert	Alt. #2

**Also Present:**

Dennis Deutsch, Esq., Board Attorney  
Christopher Statile, PE Board Engineer

**Absent:** Dwight de Stefan                      Class III (Councilman)  
Jim Tolomeo                                      Alt. #1

**MINUTES: February 20, 2008** - Mr. Wahmann and Mr. Koons recused themselves and left the dais. Mr. Carillo chaired. The Minutes of February 20, 2008 were approved as amended on motion of Mr. Tucci and seconded by Mr. Shalhoub. On roll call vote, Mr. Shalhoub, Mayor Blundo, Mr. Ericksen,

(RVPB 3/17/08 Minutes)

Mr. Wayne, Mr. Tucci, and Mr. Lippert voted yes. Mr. Wahmann and Mr. Koons were recused. Mr. Carillo was not eligible to vote.

Mayor Blundo announced, as it was reported in the paper regarding open space, that the County did grant funds to maintain open space. Coupled with Green Acres, they should be able to go ahead with open space. As for the COAH requirements, the County has stepped in and will pursue the purchase of two remaining lots, I6A& I6B. The Township will not participate or object. We will not seek any more tax dollars because the burden on the taxpayers is significant. If the County is successful we would not object, although the Township would lose ratables. The overall goal of keeping open space near the reservoir supercedes the loss in ratables. The fight is not over.

Further the Townhouse Ordinance was passed by the Council. At the appropriate time, a site plan will be provided to the Board.

They will commence the River Vale COAH Committee. The new Round Three Rules were reviewed. The Planning Board, Zoning Board and the Township must work closely together to avoid a builders remedy law suit. The Mayor asked Damian Gil to attend Zoning Board meetings as well. He commended Mr. Statile for his foresight on COAH, their rights and bringing it to the attention of the Board and Township.

**RESOLUTIONS:** None

**PUBLIC HEARINGS:**

1. **JPE Construction, 532 Cleveland Avenue, Block 1510, Lot 22 - Whispering Woods Hearing & Major Soil Movement** - Mr. Shalhoub recused himself and stepped down from the dais. Mr. Lippert put on the record that he knows Mr. Strasser and Mr. Fox professionally, but he does not think it would affect his judgment. He wasn't sure if he could vote anyway. Mr. Deutsch advised there is no obligation for recusal, but Mr. Lippert put this on the record and that he would not be impartial. Mr. Koons indicated he may not be eligible to vote anyway. Mr. Strasser said this was a settlement hearing and he would be eligible to vote. He presented the application for settlement and had Mr. Fox present. He displayed drawings in accordance with the settlement subject to Preliminary

(RVPB 3/17/08 Minutes)

Subdivision Plan, Birchwood Estates, 4/2002, revisions totaling 12, last dated 2/29/08.

Matthew Fox was sworn in and was previously qualified and accepted. He prepared A2, which was in accordance with the Stipulation of Settlement reached with JPE Contractors and the Board. He walked him through the changes to the original plan. First the Sabin lot is now a conforming lot and is no longer a corner lot. Lot 22.01 was reconfigured to have an 8' strip along the westerly property line. They adjusted the roadway down to 40'. Mr. Fox also described the landscaping as reflected on the Tree Removal and Preservation Plan, Sheet 7 of 11, dated 4/02, last revised 2/29/08. They indicate the trees to be removed and replaced. The Landscaping Plan on Sheet 9 of 11, containing the proposed plantings, was done in connection with Mr. Statile's office. The sheets were marked Ala through Ali. There were no variances requested.

Mr. Fox further testified they revised the bulk schedules accordingly. He described the lot lines. Mr. Fox was in agreement with Mr. Statile's report. Mr. Statile requested trees to be planted. The buffer will as per what is acceptable to the board Engineer. Mr. Koons commented the Board does not accept Belgium block curbing. Applicant, through Mr. Fox, agreed to concrete curbing. John Paterno, 12 Quail Ride Road, Montvale, was sworn in and stated he met with Mr. Statile, and he had no objection to it. Mr. Koons said we made it a policy, since our DPW Chief had a problem with it. Mr. Paterno said the new DPW Chief did not have a problem with it. Mr. Koons said they would make him aware of the policy. Mr. Strasser said concrete curbing would be no problem.

As for soil moving, Mr. Strasser questioned Mr. Fox, who gave the calculations based on the Soil Movement Plan, Sheet 11, with Cross-Sections and computations, marked Ald. A net excavation of 614 cubic yards of so would be exported, via 80-90 truckloads. Mr. Carillo noted there is a drainage easement. Mr. Statile responded he had no problem with it; the attorneys just have to work out the legalities. This would be via a deed restriction.

Mr. Carillo asked if this was sufficient. Mr. Fox described the drainage system.

(RVPB 3/17/08 Minutes)

The matter was opened to the public, and Steve Garbarino, 529 Cleveland Avenue, was sworn in. He asked Mr. Fox why he was moving 90 truckloads of dirt out. Mr. Fox said it would be done over a four or five month period. The Board was concerned about the water and making the drainage work. Mr. Garbarino was concerned about mud. Mr. Strasser advised it would be done in conformance with the Police Department. He wants plantings on his side of the house. Mr. Fox said there were about eight trees providing some screening with trees along Cleveland Avenue, which should do an adequate job of screening and buffering. Mr. Garbarino said his major objection was that he now will have a road in front of his driveway. In the original denial the Court looked at it and send it back with normal restrictions and that it be approved. The approval to build it has been given. He felt there was no consideration of him, and he does not like it. It is not fair to him.

George Shalhoub, as a resident, of 522 Cleveland Avenue, was sworn in and said he had a document filed 1/28/08, which was the Settlement Agreement, based on a drawing. In it was a Site Plan that the Judge and everyone else agreed to, which was to be followed. The Plan now is significantly different from what is on this sheet. He felt the staggered row of plantings was a definite improvement over what was there before, to shield the headlights. The new plan was deficient insofar as it does not follow what is the minimum standard. Mr. Fox explained the difference. Mr. Shalhoub set forth his other concerns, such as the maintenance of the trees. Mr. Statile explained there is a maintenance bond, for one year after complete approval. Mr. Carillo commented there is a Builder's Agreement. They agreed to stagger and fill in with evergreens. Mr. Shalhoub requested the builder not put white pines on his side. He is 110' from the back corner. Mr. Strasser suggested having the two engineers work it out. Mr. Shalhoub asked who would inspect it. Mayor Blundo said he would have the both engineers, Township and Board, look at it. Mr. Shalhoub on Sheet A18, they show top of berm at 63' approximately and went over the plan with Mr. Fox. He would rather see greenery than a fence and further requested that there be no floodlights on the garage on his side.

Steve Garbarino came forward again on the subject of lights and trees, stating for him there is no relief. Mr. Koons asked Mr. Strasser if he had any diversion to

planting some trees across the roadway. Mr. Strasser would confer with Mr. Paterno. Mr. Garbarino would not want the plantings on his property because of the sight triangle. Mr. Garbarino feels it affects him and there is no relief or consideration.

There were no further questions, comments or discussions. Mr. Koons moved to close the hearing with second by Mr. Carillo. On roll call vote, Mr. Wahmann, Mayor Blundo, Mr. Carillo, Mr. Ericksen, Mr. Wayne, Mr. Tucci, and Mr. Koons voted yes. A motion for final approval and soil moving approval was made by Mayor Blundo, seconded by Mr. Tucci.

**2. Blue Hill Estates, 719 & 707A Orangeburgh Road, Block 202.01, Lots 9, 15.01, 16.05 - Preliminary Major Subdivision & Final Subdivision** - - Chairman Koons recused himself and stepped down from the dais. Christopher Wahmann acted as Chairman. A court reporter was present on behalf of the applicant. James Jaworski, Esq. represented the applicant, Blue Hill Estates, by Mr. Raymond and Mr. Janovic, in an application for three existing lots in the A residential zone. Mr. D'Elia was otherwise disposed, and he was appearing on his behalf. It is basically three lots with three dwellings, becoming six lots with six dwellings. One existing dwelling would remain. They feel they have a conforming application, with 18,000 sq. ft. required per lot, and they meet or exceed those requirements. Mr. Statile's report handed to them tonight dated 3/17/08, calls off the issue of lot frontage continuing to be a variance.

John J. Lamb, Esq. represented the objectors, Kenneth and Barbara Koons and had an objection to the public notice. Mr. Deutsch advised they would address the issue after the completion of Mr. Jaworski's introduction.

Mr. Jaworski continued. They are unable to locate the schedule that Mr. Statile handed to them in either the ordinance purchased and/or downloaded from the municipality. They disagree with Mr. Statile's statement regarding frontage variance and ask for a waiver for inconsistent lot lines. They would be amendable to a means of mitigation; they would consider ways to keep the road continuing and would take the Board's recommendation. Length of cul-de-sac no design waiver is required. They came with a conforming application that is not perfect, but

tried hard to get to the point where all the difficult components are eliminated. The MLUL states, that the Planning Board shall, if the proposed subdivision complies with this act, grant preliminary approval to the subdivision.

Mr. Lamb was given an opportunity to provide opening remarks. Mr. Lamb stated there were misleading comments at the last meeting, and he wanted to tell the Board the efforts his client made to resolve the issues. If there was a subdivision granted, not agreeable to his client, he had a right to appeal. If the Board denies the application, the applicant has the right to appeal. He did not see why they could not resolve this, but they raised details. They put in a piece of the settlement agreement that stated we will let all of this happen but will not let the County or an agency take a chunk of their property. Suddenly Mr. D'Elia sent a letter stating what the County wanted, which was to take the front of the Koons property and eliminate it. They do not want any part of their property stripped. They were able to get the County to narrow that taking. The County also wanted a wall in front of the Koons property. They tried to work it out with Mr. D'Elia.

Mr. Deutsch gave legal comments: He was not present at the last meeting, and counseled the Board that any settlement attempts between the parties is not something the Board can consider in any way, nor can you decide if any side was fair or reasonable in any way. The Board may consider only the testimony before the Board, public and arguments of counsel as well. Your job is to make a decision as to whether the application complies with the Master Plan, MLUL, and the basis of the variances, and if it is in the best interest of the Township to grant the application with conditions. Mr. Jaworski indicated he would rebut, as it is his right, and one party acted fairly. When someone says it is not the money, it is. Mr. Lamb dittoed Mr. Jaworski on behalf of his own client.

Mr. Lamb put his objection on the record, which was a problem with the notice. Mr. Lamb showed a board illustration and questioned how the subdivision could be considered conforming, referring to the lot outlined. He also believed the Board must request to see the Abbe Subdivision Approval. Perhaps notice must be sent and possibly that subdivision would have to be amended. Mr. Lamb asked if the shorter street frontages are permitted,

(RVPB 3/17/08 Minutes)

pointing out that the entire frontage is 725', and the lots are not 60% of that. Mr. Deutsch advised these are introductory remarks in connection with the notice objection. Mr. Lamb continued. Zoning Ordinance Section 142-263 talks about lot width. Section 142-206 talks about shape. They believe that proposal is not a good subdivision pattern and therefore, they need a waiver. Section 142-209 refers to right angles, which Mr. Statile states a waiver is needed from, and they agree. Also, he cannot tell where the side lot lines are. The previous subdivision is being reconfigured by the detachment and reattachment of slivers of property. The applicant must say they are amending a prior subdivision in 1955 and 2001 and is asking for the variances and waiver, of which there are three.

Mr. Jaworski responded and noted they put the universal clause in concerning any and all variances. Procedurally, there is no notice issue here. They comport with the lot width exceeding 120'. Their engineer will confirm that. Regarding old subdivisions, his case is they have plans that call off the applicable circumstances that apply to this property. With respect to any design standards that Mr. Statile makes a reference to, they will make an amendment to their application.

Mr. Lamb also brought up 142-262(c), regarding separation, which applies, because they are creating non-conformities on the lots. Also the "catch all" variance clause in the notice would not apply to the frontage variance.

Mr. Deutsch read from the MLUL regarding requirements for the notice, the purpose of which is to provide general notice to the public to make a determination whether to appear and/or object or not. It includes anticipated known variances as well as those that may come up at the time of the hearing. Always it is the applicant that proceeds at his or her own risk. He can choose to do so. The Board must go ahead and hear the application if the applicant chooses, even if the Court later finds the notice was deficient. The applicant can take the objector's comments and renote. It is the choice of the applicant.

Mr. Carillo deferred to Mr. Jaworski to see how they would proceed. Mr. Jaworski requested a brief recess. The Board took a recess at 9:52 p.m.

(RVPB 3/17/08 Minutes)

The Board reconvened at 10:00 p.m. with the same attendance on roll call.

Mr. Deutsch advised that during the break a member of the public came forward. Mr. Higgins said he wanted to be heard on a jurisdictional issue as well. He has the right to be heard solely on the issue as well. Mr. Jaworski advised he would suspend the hearing at this time, not call his witness and come back next month after examining his notice to see if he has a procedural issue as well. He asked the Board to carry the matter to the next meeting and perhaps renote, but there has been no testimony, so he would want the matter carried to the next meeting date. Mr. Deutsch commented for the benefit of the Board, should the applicant decide to renote, the Board should not take any inference from that, it is the applicant's option to do so. Mr. Higgins had returned to the room, and as long as they are adjourning based on the comments of Mr. Jaworski, he would not comment at this time. Mr. Lippert asked if he would extend the time. Mr. Jaworski said they would be happy to extend to the end of the month of April, 2008.

Mr. Deutsch advised and asked Mr. Jaworski if it would be acceptable to carry to the next regular meeting of the Board if the calendar permits it. The Board cannot push off a prior applicant. Mr. Jaworski understood this would take more than one meeting and would extend to the end of May, 2008. Mayor Blundo said this is a reasonable request, that if we are so busy, we could consider a special meeting. Mr. Jaworski reiterated he would extend to the end of May and if busy, would move it forward. Mr. Deutsch noted as long as it would not impact the earlier agenda.

Mr. Deutsch announced for the record and the public that the matter would be carried to 4/21/08. Mr. Jaworski confirmed same and granted an extension on the record, but would send a letter in the meantime. Mr. Tucci requested Mr. Jaworski send a copy of the new notice to the objecting counsel in advance since the public keeps coming up. Mr. Deutsch advised that if the objector keeps making issues that delay the commencement, the Board can make a decision as to whether to proceed.

**DISCUSSIONS:** None

**OPEN TO PUBLIC** - None

(RVPB 3/17/08 Minutes)

**PAYMENT OF INVOICES:** None

**NEXT MEETING:** April 21, 2008

**ADJOURNMENT:** On motion made, seconded and carried, the meeting was adjourned at 10:15 p.m.

**Respectfully submitted,**

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**Mary R. Verducci, Paralegal  
Recording Secretary**